
Appeal Decision

Site visit made on 20 January 2021

by John Morrison BA (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 29 January 2021

Appeal Ref: APP/V2635/W/20/3260293

167 New Road, Upwell, Norfolk PE14 9HP

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant approval required under Schedule 2, Part 3, Class PA of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).
 - The appeal is made by Mr J Sculthorpe against the decision of King's Lynn and West Norfolk Borough Council.
 - The application Ref 20/00859/PACU5, dated 11 June 2020, was refused by notice dated 29 September 2020.
 - The development proposed is described as 'proposed change of use from B1(c) - light industrial, to C3 - residential.'
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Decision

1. The appeal is dismissed.

Main Issue

2. There are three main issues in regard to whether or not the proposed development would comply with the conditions and limitations of Schedule 2, Part 3, Class PA of the GPDO¹. These are concerned with a) the use of the premises; b) the carrying out of building operations; and c) whether habitable rooms would benefit from sufficient natural light.

Reasons

Use

3. The rights under the aforementioned class of the GPDO apply to buildings (and land in their curtilage) in B1(c) use as they are defined in the Use Classes Order (UCO). These being, according to the UCO and Class PA, light industrial use. The evidence suggests that the appeal site has been in use as a contractor's yard since 2016 and prior to that it was used for agriculture. The contractor's yard, as far as the evidence suggests and from my observations on site, involves the internal and external storage of heavy vehicles, plant, machinery, materials and spoil. There are also welfare facilities housed in part of one of the buildings and in two temporary cabins. This, to my mind, would be very similar to a builder's yard which can be a *suis generis* use.
4. Moving on, it does not strike me that an industrial operation, either light or otherwise, is taking place at the site or in the buildings. The site is used

¹ The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended)

mainly for the storage of materials and equipment associated with an operation that takes place elsewhere. In the case of the business currently occupying the site, one connected to Council approved civil engineering and highways works.

5. Prior to the incumbent occupiers, it appears based on what I have seen that the site and buildings were connected with an agricultural use. The buildings may have been workshops according to the evidence, but it is ambiguous as to whether these were industrial uses in themselves or connected with the known agricultural use.
6. With the above in mind, I remain to be convinced that the appeal site and thus the buildings in question fall into a use that could be described as B1(c) for the purposes of Class PA.

Operational Development

7. Class PA of the GPDO defines development permitted thereby as consisting of a change of use of a building and any land within its curtilage from a use falling within Class B1(c) (light industrial) of the schedule to the use classes order to a use falling within Class C3 (dwellinghouses) of that schedule. No part of PA permits, as far as I can see, operational development. The plans that I have seen do not appear to propose additional openings and the shape of them would remain. The glazing style would change insofar as there being new windows inserted into the existing openings but I would consider these to be repairs and/or replacements at best and not necessarily amount to materially affecting the external appearance of the buildings which is one of the tests for what may be development for the purposes of Section 55 of the Town and Country Planning Act 1990.
8. That said, and from the plans I have seen, the proposed development would also involve large glazed openings where sliding double doors are currently, as well as replacement timber cladding to large wall sections and new tiles to roofs where profile sheet currently sits. Together, I feel these factors would materially affect the external appearance of the buildings and thus they would be development under Section 55.
9. With this in mind, the appeal scheme would include building works that fall outside of the straight and explicit change of use development that is permitted by Class PA.

Natural Light in Habitable Rooms

10. Paragraph PA.2 of the aforementioned class sets out the conditions that proposals must comply with to be considered as being acceptable as a permitted change of use. Sub paragraph v refers to the provision of adequate natural light in all habitable rooms of the dwellinghouses, in the context of the requirement for prior approval. As I have alluded to above, the appeal scheme does not propose additional openings and as such natural light would be provided, in both dwellings, via the existing openings.
11. In the case of the smaller of the two buildings, and the one surrounded on two sides by a lean to canopy, I feel that the natural light would be sufficient into the living spaces and bedrooms. In the case of the larger building, there would be no windows serving the kitchen, dining or living area, two of the bathrooms or one of the dressing rooms. There would be a large opening on one gable end where the double doors are currently but this would be some distance

away from the spaces I have mentioned and in the case of the bathrooms and dressing room of no benefit whatsoever owing to the position of internal walls. The kitchen, dining and living spaces would occupy the largest proportion of the building in terms of its floorspace and the standard of the living conditions for users thereof would be unacceptably reduced by having no discernible natural light offered into it. The use of the rooms would thus have to rely mostly on artificial light which, to my mind, would be unacceptable.

12. Accordingly, the appeal scheme would not provide adequate natural light into habitable rooms as per the requirements of the conditions in Class PA.

Conclusions

13. Taking the above matters together, it seems sufficiently clear to me that the appeal scheme would not comply with the description of permitted development as it is set out by Schedule 2, Part 3, Class PA of the GPDO. The appeal is therefore dismissed.

John Morrison

INSPECTOR